

**Idaho Board of Health and Welfare
Minutes
May 20, 2010**

The Board of Health and Welfare convened at:
Pete T. Cenarrusa Bldg.
450 W. State Street
Boise, Idaho 83720

Board Members Present

Janet Penfold, Vice Chairman
Richard Armstrong, Secretary
Dan Fuchs
Quane Kenyon
Darrell Kerby
Tom Stroschein
Stephen Weeg
Senator Patti Anne Lodge
Representative Sharon Block
Tammy Perkins, Office of the Governor

Staff Present

Drew Hall, Deputy Director, Family and Welfare Services
Richard Schultz, Deputy Director, Health Services
David Taylor, Deputy Director, Support Services
Betty Mills, Special Assistant to the Board
Jeanne Goodenough, Deputy Attorney General-Human Services
Rob Luce, Deputy Attorney General-Human Services
Michelle Britton, Family and Community Services Administrator
Landis Rossi, Family and Community Services Program Manager
Steve Bellomy, Audits and Investigations Bureau Chief
Tamara Prisock, APS Program Manager

Others Present

Sara Stover,
Representative Lynn Luker
Dustin Hurst
Frank Harper

Call to Order

Following proper notice in accordance with Idaho Code Section 67-2343 and pursuant to call by the Vice Chairman, the meeting of the Idaho Board of Health and Welfare was called to order by Janet Penfold, Vice Chairman of the Board, at 8:05 a.m. Thursday, May 20, 2010, at the Pete T. Cenarrusa Bldg., 450 W. State Street, Boise, Idaho.

Roll Call

Richard Armstrong, Secretary, called the roll. Roll call showed eight members present. Absent and excused were Richard Roberge, Senator Patti Anne Lodge and Representative Sharon Block.

Senator Lodge and Representative Block joined the meeting after roll was called. With six voting members present, Vice Chairman Penfold declared a quorum.

Public Comment Period

Vice Chairman Penfold opened the floor for public comment. Quane Kenyon presented a review of a discussion from the Interagency Committee on Substance Abuse Prevention and Treatment –Budget Reduction Measures Summary. The Board then advanced to the next order of business.

ADOPTION OF MINUTES FROM BOARD MEETING ON NOVEMBER 19, 2009

Motion: Stephen Weeg moved that the minutes of the February 18, 2010 Board meeting be adopted as prepared.

Second: Quane Kenyon

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Stroschein, Weeg – 6
Nays: None

Motion Carried

DHW BOARD RULEMAKING PROCESSING AND RESPONSIBILITIES

The Board rulemaking processing and responsibilities were presented and reviewed. The Board determined it would be advantageous to provide a copy of these support rules in their packets for future Board meetings.

HEALTH SERVICES REPORT

The Behavioral Health Transformation Workgroup made recommendations to regionalizing the departments Mental Health Services.

CRIMINAL HISTORY BACKGROUND CHECKS

Docket No. 16-0506-1001 (Temporary)

The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The criminal history and background check (CHC) rules provide a list of individuals and providers required to have a CHC. The CHC rules reference other Department rules and statutes requiring certain individuals to meet the CHC requirements. Currently, some of the individuals and providers listed in this chapter are not consistent with Department rules that require the check. In order to remove confusion between the Department's program rules and the Department's CHC rules, these CHC rules are being amended to only reference the Department's chapter of rules where an individual is required to have a criminal history and background check.

Stephen Weeg suggested the wording, "Individuals who must comply with" be consistent throughout the rule. Steve Bellomy stated he would make the change.

Motion: I, Quane Kenyon move that the Idaho Board of Health and Welfare adopt the "Temporary" rules for the "Criminal History and Background Checks," presented under Docket No. 16-0506-1001 with effective dates of May 1, 2010 and July 1, 2010, as amended.

Second: Dan Fuchs

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Stroschein, Weeg – 6
Nays: None

Motion carried as amended

CRIMINAL HISTORY AND BACKGROUND CHECKS

Docket No. 16-0506-1002 (Temporary)

The Department is required to check the Idaho Child Protection Central Registry when requested by another state when an individual applies to become a foster parent or adoptive parent. Each state is required to check its child abuse registry when an individual has resided in the state within the past five years. Because of budgetary constraints, the Department is adding a fee to cover the administrative costs that occur when these checks are provided. This rule provides the guidelines and fee for an Idaho Child Protection Central Registry Check.

Motion: I, Stephen Weeg move that the Idaho Board of Health and Welfare adopt the "Temporary" rule for the "Criminal History and Background Checks," presented under Docket No. 16-0506-1002, with an effective date of July 1, 2010.

Second: Tom Stroschein

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Stroschein, Weeg – 6
Nays: None

Motion carried

RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

Docket No. 16-0750-0901 (Temporary)

Title 39, Chapter 11, Idaho Code, was amended to provide a statewide system for the protection of children in daycare facilities. The statutory changes were effective on January 1, 2010, and necessitate corresponding changes and clarification in this chapter of rules. The Department presented rules to the 2010 House and Senate Health & Welfare Committees. The Senate passed the rules and the House rejected them. These rules are being published as temporary rules, in order to have rules effective on July 1, 2010.

This code has been very controversial for many years. The Department is currently operating on rules that were approved by the Legislature and in effect for a number of years.

Frank Harper, a constituent operating an in home day care, expressed concern regarding the requirement to count their own children if this rule passes. He stated this would restrict the number of children they would be allowed to care for in their home, resulting in the need to close their business and seek other employment.

Representative Luker brought before the Board a Legislative Intent Analysis of the proposed Day Care Rules. He stated his position that the proposed temporary rules continue to exceed legislative intent in a number of different ways. Most serious is the flagrant redefining of statutory definitions which significantly change the application and intent of the law as to who is legally required to submit to licensure for daycare. Secondly, several provisions related to the application and intent of the law as to who is legally required to submit to licensure for daycare, information required, grounds for sanction and time for submission as specifically noted above either conflict with statutory provisions or exceed statutory rule make limits found in the day care law.

Representative Block expressed this issue with the Day Care Licensure has been on going in the Legislature for years. It is her belief that the intent of the Legislature was not to count the providers own children. Representative Block stated that the legislation pertaining to this issue was presented to the House, passed unanimously and was signed by Governor Otter. She requested that the Board not approve the rules brought before them today.

Senator Lodge expressed concern for the providers. She feels there should be some flexibility in the rules regarding the requirement to count their own children if they are not actually in the home for a full day. Senator Lodge stated these issues should have been resolved during the Legislative Session.

Darrell Kerby encouraged the Board to pass the Temporary Rule brought before them today and advised that the Legislature could make changes if they deemed necessary during next Legislative Session.

Motion: Quane Kenyon moved to end the discussion regarding rules governing standards for child care licensing.

Second: Darrell Kerby

Roll Call Vote: Ayes: Kenyon, Kerby, Penfold, Stroschein – 4
Nays: Fuchs, Weeg – 2

Motion carried

Motion: I, Quane Kenyon move that the Idaho Board of Health and Welfare adopt the “Temporary” rules for “Rules Governing Standards for Child Care Licensing,” presented under Docket No. 16-0602-1001, with an effective date of July 1, 2010.

Second: Darrell Kerby

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Stroschein, Weeg – 6
Nays: None

Motion carried

RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

Docket No. 16-0602-1002 (Temporary)

Title 39, Chapter 11, Idaho Code, established a statewide system for the protection of children in daycare facilities which included licensing fees. The rule amendments in this docket provide requirements for licensing and inspections fees for daycare licensing that were effective on January 1, 2010.

Motion: I, Stephen Weeg, move that the Idaho Board of Health and Welfare adopt the "Temporary" rules for "Rules Governing Standards for Child Care Licensing," presented under Docket No. 16-0602-1002, with an effective date of July 1, 2010.

Second: Quane Kenyon

Vote: Ayes: Fuchs, Kenyon, Kerby, Penfold, Stroschein, Weeg – 6
Nays: None

Motion carried

DIRECTOR'S REPORT

Prior to Director Armstrong giving his report, the Board of Health and Welfare commended him for the way he and the Department handled the difficult job regarding all of the layoffs and office closures due to lack of funding. Representative Block also acknowledged and thanked the Director from the Legislatures stand point, for what he has been able to accomplish.

All divisions in Health and Welfare were affected with layoffs and furloughs. Executive Staff also participated in taking furloughs. Central Office had a higher percentage of layoffs than the regional offices. 9 offices were closed through out the regions and 156 positions have been left opened or unfilled throughout all divisions, to assist in balancing the budget for FY2010.

The Division of Welfare received 11,000 certifications this year on food assistance in comparison to receiving 5,600 certifications in 2009. Although the food assistance caseloads have increased significantly, Welfare has continued to move forward in processing cases at a commendable rate despite layoffs and furloughs.

Medicaid showed a substantial shortfall in their budget for FY2010. Medicaid will hold vendor payments to address the projected shortfall. Payments will be carried over to FY2011.

Hospitals will be affected by approximately \$25 million due to Medicaid holding payment on their submitted Medicaid claims. Health and Welfare contacted the Hospitals and have set up weekly meetings to try and procure a solution for FY2011 regarding Medicaid payment on claims. An option has been discussed between the Department and Hospitals for them to hold their Medicaid claims for a longer period of time before requesting payment. This would allow Health and Welfare additional time to process Medicaid claims from Hospitals after the start of the new FY.

Emergency Medical Services (EMS) rule changes sparked a debate over whether all ski patrollers must be licensed. In many situations, ski patrollers are providing the same services as licensed EMT's.

Health and Welfare has received many letters from constituents regarding legislatures discontinuing funding services for Cystic Fibrosis (CF) patients. This difficult decision was one of many made, due to lack of funding. Health and Welfare is assisting CF patients in finding appropriate services they require.

The Medically Indigent Program sent out a Request for Information (RFI) to perform Utilization Management for the counties and state CAT program. 3 new employees will be assigned to Welfare to process the Combined Application pursuant to statute.


ADJOURNMENT

The next meeting of the Board of Health and Welfare is scheduled to be held August 19, 2010. There being no further business to come before the Board, Vice Chairman Penfold adjourned the meeting at 1:30 p.m.

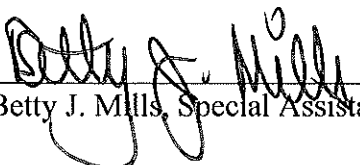
Respectfully signed and submitted by:



Janet Penfold, Vice Chairman



Richard M. Armstrong, Secretary



Betty J. Mills, Special Assistant